

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015060441

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
MEDIATION, PREHEARING
CONFERENCE, AND HEARING
DATES

On July 31, 2015, parties filed a joint request to continue the dates in this matter based upon the parties' prior inability to meet for mediation due to administrative error.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. The parties have established good cause for a continuance. The parties were unable to have a mediation session due to unanticipated scheduling difficulties which are not solely chargeable to either party. Such administrative error merits a second extension where both parties believe a mediation session is worthwhile, the parties are in agreement on new dates, there has been no dilatory conduct, the previous continuance was brief, and the requested continuance is not excessive. The ALJ set the following dates upon agreement by the parties. This matter will be set as follows:

Mediation:	August 12, 2015, at 1:30 p.m.
Prehearing Conference:	September 11, 2015, at 3:00 p.m.
Due Process Hearing:	September 28, 2015, at 9:30 a.m. on that day only, through October 1, 2015, at 9:00 a.m. thereafter, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing “good cause” to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: August 3, 2015

/s/

CHRIS BUTCHKO
Administrative Law Judge
Office of Administrative Hearings